

CONSERVATORSHIP CALENDAR NOTES

July 30, 2013

2:30 p.m., Department 40

UPDATED July 29, 2013, 2:30 p.m.

The following are the Conservatorship Calendar Notes for the conservatorship calendar set for hearing July 30, 2013, 2:30 p.m. in Department 40, Commissioner Michael A. Jacques, presiding. Department 40 is located at 10820 Justice Center Drive, Roseville, California, in the Santucci Justice Center.

If a verified petition on an accounting or attorney fees is recommended for approval, no appearance is required. For all other matters, appearances are required. If you have questions regarding the calendar notes, please contact the probate research attorney at (916) 408-6119. Do not contact Department 40 directly.

IF THE CALENDAR NOTES STATE THAT A DOCUMENT IS MISSING AND YOU HAVE A FILE-ENDORSED COPY OF THAT DOCUMENT, PLEASE FAX A COURTESY COPY OF THAT DOCUMENT TO (916) 408-6275. THE COURT DOES NOT ACCEPT DIRECT FAXES FOR FILING. ANY UNFILED DOCUMENT FAXED TO THIS LINE WILL NOT BE FILED.

Updated calendar notes will ordinarily be posted on the court day prior to the hearing. Please do not call the probate research attorney regarding the calendar notes until after checking for any updated notes.

1. S-PR-0005579 Brown, Mary - In Re the Conservatorship of

Appearance is required for hearing on trust accountings.

2. S-PR-0006263 Miller, Kathryn M. - In re the Conservatorship of

The petition to withdraw funds, to increase bond, and for attorney fees is recommended for approval as prayed.

3. S-PR-0006374 Lindner, Michael W. - In Re the Conservatorship of

No appearance is required for hearing on conservatorship report. No procedural defects are noted.

4. S-PR-0006854 Seibel, Elsie J. - In Re the Conservatorship of

Appearance is required for hearing petition for appointment of conservator of the estate.

Missing proof of service of citation on respondent.

The revised bond calculation set forth in petitioner's declaration appears adequate.

Missing sufficient capacity declaration. The capacity declaration filed by Dr. Corpuz-Zabala states that no assessment of mental function could be made because respondent has not been evaluated in almost 2 years. A current capacity declaration is needed.

The requested power to receive settlement funds and pay associated attorney costs related to case SCV-31218, *Seibel v. Siena Care Center, LLC*, must be denied. The petition to compromise claim filed in that case was never set for hearing, never noticed for hearing, never heard, and never granted, all of which was noted in the court's ruling filed May 23, 2013. Moreover, that ruling stated clearly that even if the petition had been properly before the court, it would have been denied. Conservator cannot compromise respondent's claim without a successful petition under Prob.C. § 3600, et seq.

The requested additional power to pay for respondent's care home from joint accounts should be denied as superfluous. If conservatorship of the estate is granted, the Probate Code establishes the powers, duties and obligations of conservator of the estate, including how conservatorship funds may be expended. Unless the requested power is additional to those enumerated in the code or otherwise requires court approval, it should not be granted.

The inventory filed July 26, 2013, should be stricken. First, petitioner has no estate powers at this point and so cannot have lawfully marshaled assets of respondent. Next, future income is not marshaled—and so cannot be inventoried—until received. Expected litigation settlement proceeds are not marshaled—and so cannot be inventoried as cash—until received. If conservator, after appointment, wishes to inventory respondent's claim in the related civil case, the value of the claim, as a non-cash asset, can only be valued by the probate referee. Finally, the mobile home, valued by petitioner at "nil", is a non-cash asset and can only be appraised by the probate referee.

5. S-PR-0006921 Beardsley, Gay - In Re the Conservatorship of

Appearance is required for hearing on petition for appointment of guardian of the person and estate.

Missing appointment of and appearance by or report of court-appointed counsel respondent; appointment should have been requested at the time the petition was filed, Local Rule 80.3.2. Counsel has indicated the request for dementia powers may be dropped.

Medical capacity declaration does not support requested dementia medication powers.

There is no petition for temporary conservatorship before the court.

6. S-PR-0006932 Simonelli, Stefanie Marie - In Re the Conservatorship of

Appearance is required for hearing on petition for appointment of conservator of the person.

Missing personal service of citation on respondent.

Missing service of the notice of hearing on all second-degree relatives. Missing 30 days' service of notice of hearing on Alta Regional Center, Prob.C. § 1822(e).

Missing investigation report.

Current status of powers exercised under temporary conservatorship is needed.